

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED STATES, for the use and benefit of MPI MECHANICAL, INC., a Delaware corporation,	:	
Plaintiff,	:	
v.	:	
WESTCHESTER FIRE INSURANCE COMPANY, a New York corporation,	:	C.A. No. 07-CV-00542
Defendants.	:	JURY TRIAL DEMANDED
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MPI MECHANICAL, INC.,	:	
Plaintiff,	:	
v.	:	
MEHAR INVESTMENT GROUP, L.L.C., d/b/a MIG ENVIRONMENTAL, LLC, and HIRANI ENGINEERING AND LAND SURVEYING, P.C.,	:	
Defendants.	:	

**MPI MECHANICAL, INC.'S ANSWER TO COUNTERCLAIM OF DEFENDANTS
HIRANI ENGINEERING AND LAND SURVEYING, P.C. AND MEHAR INVESTMENT
GROUP T/A MIG ENVIRONMENTAL, LLC**

Plaintiff United States, for the use and benefit of MPI Mechanical, Inc., by and through its undersigned counsel hereby responds to the Counterclaim of Defendants Hirani Engineering and Land Surveying, P.C. and Mehar Investment Group t/a MIG Environmental, LLC (“Defendants”) as follows:

111. Denied.

112. Denied.

113. Denied.

WHEREFORE, Plaintiff demands judgment against Defendants dismissing their Counterclaim with prejudice in its entirety and that Defendants be required to pay for costs and other further relief as this Court deems just.

AFFIRMATIVE DEFENSE AS TO COUNTERCLAIM

1. Defendants' Counterclaim fails to state a cause of action upon which relief may be granted.
2. Defendants' Counterclaim is barred, as they fail to exercise reasonable diligence and fail to mitigate their damages.
3. The alleged loss, if any, was caused by Defendants or a third party over which Plaintiff had no control.
4. Defendants' Counterclaim is barred by the doctrine of waiver, release and/or estoppel.
5. Defendants have failed to fulfill their contractual and other obligations to Plaintiff, thereby barring the claim and relief sought by Defendants in their Counterclaim; and, in the alternative, Defendants' claim must be reduced by set-off against or recoupment against damages incurred by MPI as a result of such failures.
6. Plaintiff reserves its rights to amend its answer to counterclaim, including to assert additional defenses that may become known through discovery.

WHEREFORE, Plaintiff demands judgment against Defendants dismissing their Counterclaim with prejudice in its entirety and that Defendants be required to pay for costs and other further relief as this Court deems just.

COHEN SEGLIAS PALLAS GREENHALL &
FURMAN, PC



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(302) 425-5089
*Attorneys for Plaintiff United States, for the use
and benefit of MPI Mechanical, Inc.*

DATED: December 7, 2007

05750-004/26

CERTIFICATE OF SERVICE

I, Edward Seglias, hereby certify that on December 7, 2006, a true and correct copy of MPI MECHANICAL, INC.'S ANSWER TO COUNTERCLAIM OF DEFENDANTS HIRANI ENGINEERING AND LAND SURVEYING, P.C. AND MEHAR INVESTMENT GROUP T/A MIG ENVIRONMENTAL, LLC was served via CM/ECF upon the following:

Joseph Scott Shannon, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin, P.C.
1220 N. Markey Street – 5th Floor
P.O. Box 8888
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/s/ Edward Seglias

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*Attorneys for Plaintiff United States, for the use
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DATED: December 7, 2007